

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES JOE ROBINSON, JR.,

CASE NO. C19-1569JLR

Plaintiff,

ORDER ADOPTING REPORT
AND RECOMMENDATION

THOMAS C. O'BAN, et al.,

Defendants.

I. INTRODUCTION

Before the court is the Report and Recommendation of Chief United States

Magistrate Judge Brian A. Tsuchida recommending that Plaintiff's complaint be

dismissed (R&R (Dkt. # 3)), and Plaintiff's objections thereto (Objections (Dkt. # 4)).

Having carefully reviewed the foregoing, along with all other relevant documents and

governing law, the court ADOPTS the Report and Recommendation (Dkt. # 3) and

DISMISSES Plaintiff's complaint without prejudice.

11

II. STANDARD OF REVIEW

2 A district court has jurisdiction to review a Magistrate Judge's report and
3 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). "The district judge must
4 determine de novo any part of the magistrate judge's disposition that has been properly
5 objected to." *Id.* "A judge of the court may accept, reject, or modify, in whole or in part,
6 the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).
7 The court reviews de novo those portions of the report and recommendation to which
8 specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121
9 (9th Cir. 2003) (en banc). "The statute makes it clear that the district judge must review
10 the magistrate judge's findings and recommendations de novo if objection is made, but
11 not otherwise." *Id.* Because Plaintiff is proceeding *pro se*, this court must interpret his
12 complaint and objections liberally. *See Bernhardt v. Los Angeles Cnty.*, 339 F.3d 920,
13 925 (9th Cir. 2003).

III. DISCUSSION

Plaintiff objects to the Report and Recommendation's finding that:

A civil rights complaint under §1983 cannot proceed when “a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or sentence; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated.” *Heck v. Humphrey*, 512 U.S. 477, 487 (1994).

19 (R&R at 2; *see also* Objection at 4.) This is a correct statement of the law. Chief
20 Magistrate Judge Tsuchida's reliance on this statement does not impeach the conclusion
21 of the Report and Recommendation.

11

1 Plaintiff's objection does not raise any novel issues that were not addressed by
2 Chief Magistrate Judge Tsuchida's Report and Recommendation. (*See generally* R&R.)
3 Moreover, the court has thoroughly examined the record before it and finds Chief
4 Magistrate Judge Tsuchida's reasoning persuasive in light of that record. Plaintiff
5 essentially recycles a number of arguments—some that were included in the proposed
6 complaint and others that Chief Magistrate Judge Tsuchida identified independently—
7 that Chief Magistrate Judge Tsuchida thoroughly addressed in the Report and
8 Recommendation. (*See generally* Objection; R&R.) The court independently rejects
9 Plaintiff's arguments for the same reasons as Chief Magistrate Judge Tsuchida.

10 **IV. CONCLUSION**

11 For the foregoing reasons, the court hereby ORDERS as follows:

12 (1) The court ADOPTS the Report and Recommendation (Dkt. # 3) in its entirety;
13 (2) This matter is DISMISSED without prejudice and Plaintiff's application to
14 proceed in forma pauperis (Dkt. # 1) is DENIED as moot;
15 (3) The court DIRECTS the Clerk to send copies of this Order to Plaintiff and to
16 Chief Magistrate Judge Tsuchida.

17 Dated this ²⁰23 day of October, 2019.



18 JAMES L. ROBART
19 United States District Judge
20
21
22